

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.82 OF 2006

Vaishali A. Chavan .. Petitioner
versus
Ajitsinh B. Chavan .. Responden s

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Mr.S.S. Patwardhan for the petitioner
Mr.Vijay Patil for respondent.

CORAM : D.G. KARNIK, J

DATED : 28th November 2006

P.C.:

1. Heard learned counsel for the parties. By consent, heard finally at the stage of admission.
2. This petition under section 24 of the Code of Civil Procedure is filed by the petitioner wife for

transfer of Marriage Petition no.18 of 2006 from the Court of Civil Judge, Sr.Division Karad to the Court at Kolhapur.

3. The petitioner is the wife and resides at Kolhapur. Respondent is the husband and stays at Village Perale, Taluka Karad. The petitioner filed a petition under section 125 of the Code of Criminal Procedure for maintenance in the Court of Judicial Magistrate at Kolhapur. Within two weeks of the petitioner's filing of the the petition for maintenance, the respondent filed petition for restitution of conjugal rights in the Court of Civil Judge, Sr. Division at Karad. The petitioner has filed this petition for transfer of the marriage petition from the Court at Karad to the Court at Kolhapur.

4. Learned counsel for the petitioner referred to and relied upon the decision of the Supreme Court in Gana Saraswathi Vs. H. Raghu Prasad reported in 2000(1) SCC 277. He submitted that in the said case, the respondent husband had filed a petition for restitution of conjugal rights as a counter blast on the petition filed by the wife for divorce. The Supreme Court transferred the petition of the husband. Learned counsel for the

petitioner submits that the husband has filed the marriage petition as a counter blast to the petitioner's petition for maintenance. The submission is accepted. In the facts and circumstances of the case, the petition deserves to be allowed and is allowed as follows.

5. Marriage Petition no.18 of 2006 pending in the Court of Civil Judge, Sr. Division at Karad is withdrawn from his file and is transferred to the Court of Civil Judge Sr.Division at Kolhapur for decision in accordance with law.

(D.G. KARNIK, J)